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October 3, 1991

Ms. Donna R. Searcy  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: Amendment of Section 73.202(b)  
RM-  
Table of Allotments, FM Broadcast Stations  
Titusville and Clearwater, Florida

Dear Ms. Searcy:

On behalf of SBG Communications of Florida, Inc., licensee of Radio Station WGNE(FM), Titusville, Florida, we are filing herewith an original and four copies of its "Petition for Rulemaking" which requests the substitution of Channel 251C1 for Channel 251C2 at Titusville, Florida.

Should any questions arise with respect to this matter, please contact the undersigned counsel.

Respectfully submitted,

KAYE, SCHOLER, FIERMAN, HAYS & HANDLER

By

  
Allan G. Moskowitz

BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, D.C. 20554

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Federal Communications Commission  
Office of the Secretary

In the Matter of )  
 )  
Amendment of Section 73.202(b) ) RM-  
Table of Allotments )  
FM Broadcast Stations )  
(Titusville and Clearwater, Florida) )

To: Chief, Allocations Branch

**PETITION FOR RULEMAKING**

SBG Communications of Florida, Inc., ("SBG"), licensee of Radio Station WGNE(FM), Titusville, Florida, pursuant to Section 1.401 et seq. of the Commission's Rules, hereby petitions the Commission to institute a rulemaking proceeding to amend Section 73.202(b) of its Rules, the FM Table of Allotments, to substitute Channel 251C1 for Channel 251C2 at Titusville, Florida and to modify SBG's license for Station WGNE(FM) accordingly. SBG further petitions the Commission to institute a rulemaking proceeding to amend Section 73.202(b) of its Rules, the FM Table of Allotments, to substitute Channel 250C1 for Channel 250C at Clearwater, Florida. In support whereof, the following is shown:

**DOWNGRADE OF CLEARWATER ALLOCATION**

1. by Report & Order in MM Docket No. 88-501, the FM Table of Allotments was amended to allot Channel 250C in lieu of Channel 250C1 at Clearwater, Florida at the request of Great American TV & Radio, Inc. ("Great American"), licensee of Radio

Station WXTB(FM). The class change for WXTB(FM) became effective on November 13, 1989.<sup>1</sup> The licensee of WXTB(FM) was required to file a minor change application within ninety (90) days of the effective date of the Order upgrading the allocation. This deadline was on or about February 13, 1990. No such application has ever been filed by the licensee and WXTB(FM) continues to operate with Class C1 facilities.

2. On May 1, 1991, the Audio Services Division of the Mass Media Bureau recognized this fact and gave WXTB(FM) until August 2, 1991 to file its minor change application specifying Class C operation. Upon information and belief, SBG asserts that no such application has been filed by the licensee of WXTB(FM).

3. Since the time for filing the minor modification to upgrade the facility of WXTB(FM) has passed without the licensee filing said application, the allocation for Clearwater, Florida on Channel 250 must be downgraded from Class C status to Class C1 status. Great American has clearly abandoned its intent to upgrade WXTB(FM) and the Commission's Table of Allocations must be amended to reflect the actual facilities and operations on this channel.

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<sup>1</sup> The Report & Order in MM Docket No. 88-501, 4 FCC Rcd. 7039 (1989) was adopted September 13, 1989 and released September 17, 1989.

**WGNE(FM) PRESENTLY OPERATES ON CHANNEL 251C2**

4. Currently, Station WGNE(FM) operates on Channel 251C2 at Titusville, Florida, with an effective radiated power of 50 kW and an antenna height above average terrain (HAAT) of 141 m (462 feet).

**CHANNEL 251C1 IS NOW AVAILABLE FOR  
SUBSTITUTION AT TITUSVILLE, FLORIDA**

5. Consulting engineers have determined that Channel 251C1 is available for allotment to Titusville, Florida in compliance with all of the Commission's mileage separation requirements (presuming downgrade of the Clearwater allotment from Channel 250C to 250C1). A supporting technical exhibit prepared by Richard S. Graham, Jr. (of Bromo Communications, Inc.), is attached hereto as Exhibit 1.

**COMMISSION POLICIES FAVOR WGNE(FM) UPGRADE**

6. The Commission must ensure the fair, efficient and equitable use of the radio frequency spectrum. 47 U.S.C. Section 307(b) (West 1962 and West Supp. 1991). As a Class C2 FM broadcast station, WGNE is limited in coverage area, compared with the area that would be covered if WGNE(FM) were to operate as a Class C1 facility. With such an expanded coverage area, WGNE(FM) could reach many more listeners in the enlarged area

surrounding the Titusville, Florida area. These residents would receive additional FM service.

7. Upgrades of existing FM stations are in the public interest. 50 Fed. Reg. 45439 (October 31, 1985). And, as illustrated by Commission actions in Dockets 80-90, 85-313 and 86-144, the Commission's policy is to encourage its broadcast licensees to upgrade to provide enhanced service to their audiences. thus, the public interest considerations manifest in the efficient and fair provision of radio service would be further by SBG's proposed upgrade of the WGNE(FM) to Channel 251C1.

**IF ITS PROPOSAL IS GRANTED, SBG WILL APPLY FOR AND  
CONSTRUCT A CLASS C1 FACILITY AT TITUSVILLE, FLORIDA**

8. With its proposal, SBG seeks to have the Commission modify the license of WGNE(FM) to specify the highest class channel available. SBG will file the necessary minor change application (FCC Form 301) to specify operation on Channel 251C1 if the Commission grants the requested upgrade petition. And if granted a construction permit, SBG will expeditiously construct and then operate a Class C1 facility on Channel 251C1 at Titusville, Florida.

**CONCLUSION**

9. SBG has demonstrated that Channel 251C1 is available for an upgrade of WGNE(FM) at Titusville, Florida contingent upon

the downgrade of Channel 250 at Clearwater, Florida. Commission policies favor the upgrade of the existing FM stations, and the proposed upgrade is in the public interest.

10. SBG has further demonstrated that Great American has failed to timely request the minor modification to request to allow it to operate a Class C facility at Clearwater, Florida. For whatever reason, it appears that Great American has abandoned its proposal to construct a Class C facility on Channel 250 at Clearwater, Florida. Commission policies require that the allocation on Channel 250 for Clearwater, Florida be downgraded from Class C status to Class C1 status.


11. Therefore, SBG requests that the Commission issue a Notice of Proposed Rulemaking proposing the amendment of the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, to substitute Channel 250C1 for Channel 250C at Clearwater, Florida and to substitute Channel 251C1 for Channel 251C2 at Titusville, Florida. SBG further requests that the Commission issue Orders modifying the license of Station WXTB(FM), Clearwater, Florida, to reflect operation on Channel 250C1; modifying the license of Station WGNE(FM), Titusville, Florida to reflect operation on Channel 251C1; and requiring SBG to file a minor change application (FCC Form 301) for a construction permit specifying the new upgraded facility at Titusville, Florida within ninety (90) days of the effective date of such an Order.

12. Should the Commission ultimately adopt the rulemaking sought by SBG and issue an appropriate Order, SBG will expeditiously file a minor change application (FCC Form 301) for a construction permit specifying the upgraded facility at Titusville, Florida. And, if that construction permit is granted, SBG will build and operate the upgrade facility.

Respectfully submitted,

SBG COMMUNICATIONS OF FLORIDA, INC.

By

  
Allan G. Moskowitz  
Its Attorney

KAYE, SCHOLER, FIERMAN,  
HAYS & HANDLER  
901 15th Street, N.W.  
Suite 1100  
Washington, D.C. 20005  
(202) 682-3501  
October 3, 1991

EXHIBIT 1



SBG COMMUNICATIONS OF FLORIDA, INC.  
WGNE FM RADIO STATION  
98.1 MHZ - CHANNEL 251  
TITUSVILLE, FLORIDA  
October 1991

Technical Exhibit TE-1

Bromo Communications, Inc. P.O. Box M -  
1331 Ocean Boulevard, Suite 201 St. Simons Island,  
Georgia 31522 (912) 638-5608

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SBG COMMUNICATIONS OF FLORIDA, INC.  
WGNE FM RADIO STATION  
98.1 MHZ - CHANNEL 251  
TITUSVILLE, FLORIDA  
October 1991

This Technical Exhibit supports the proposal by SBG Communications of Florida, Inc. ("SBG"), licensee of WGNE FM Radio Station, Titusville, Florida to amend the FM Table of Allotments §73.202. This proposal seeks to upgrade WGNE from Class C2 to Class C1.

From the reference coordinates of North Latitude 28° 48' 17" - West Longitude 80° 48' 22", WGNE can operate as a Class C1 facility (100 KW ERP, 299 M HAAT), fully spaced to all existing or proposed facilities and allotments, with the exception of the allotment of Channel 250C to Clearwater, Florida (reference Exhibits #1 and #2). From the reference coordinates (above) WGNE will serve all of Titusville, Florida, the city of license, with a 3.16 mV/m or greater signal contour.

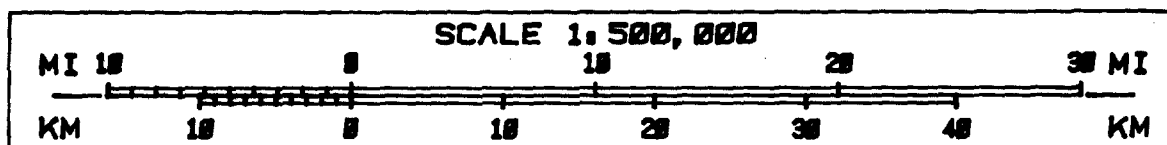
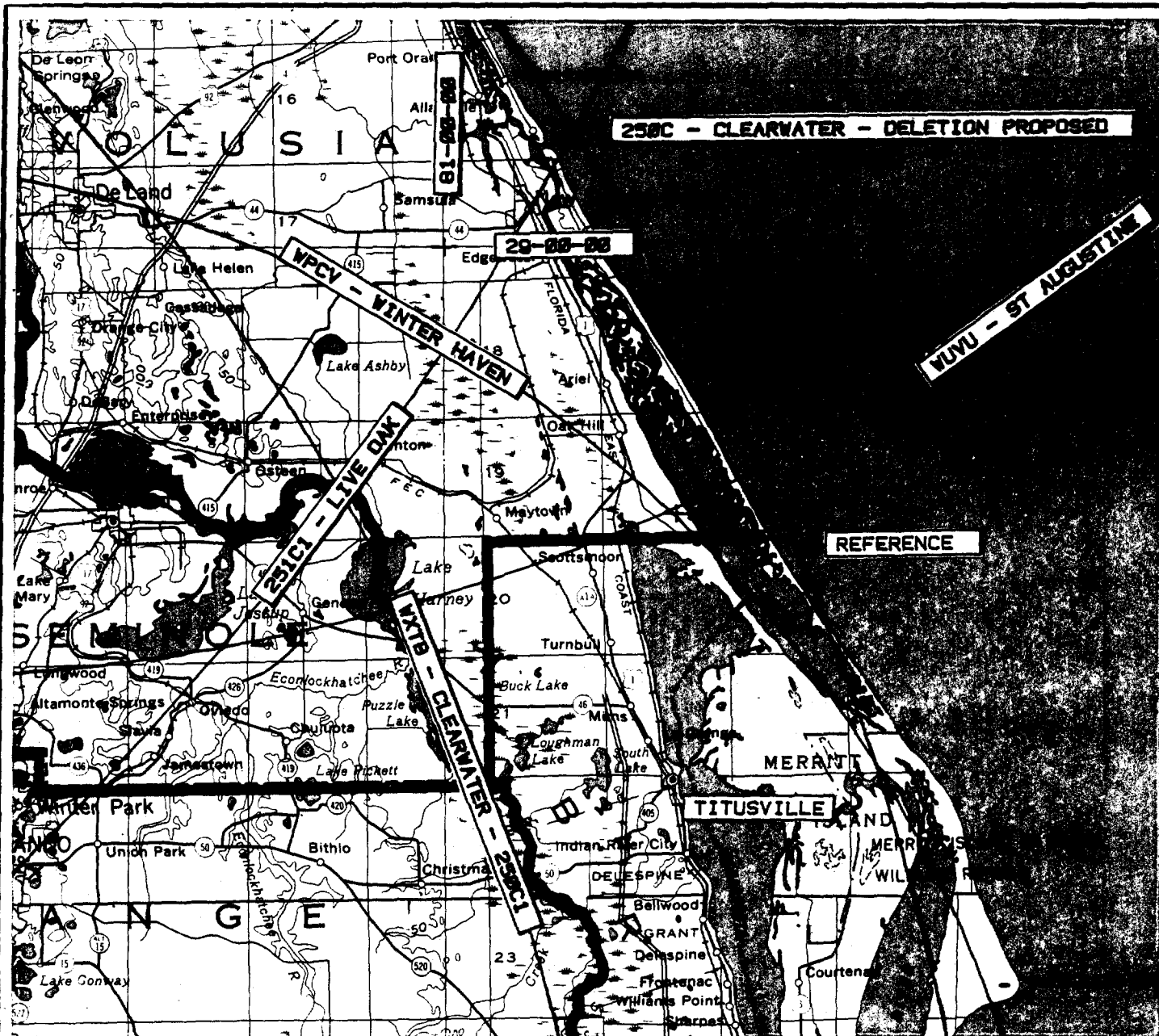
Channel 250 in Clearwater is occupied by Great American Television & Radio ("GATRS"), licensee of WXTB Radio Station, operating on Channel 250C1. Concurrent with the SBG upgrade for WGNE a downgrade from Class C to Class C1 is requested for the unapplied for Channel 250C allotment in Clearwater. The downgrade is requested to reflect the actual use of the Channel 250C1 by WXTB. Since the Class C allotment was established in MM Docket #88-501 in January 1990 (over 1 year ago), WXTB has not filed an application for full Class C

status and there is no indication that GATR has the intention to do so. Therefore, SBG requests the following:

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Titusville	251C2	251C1
Clearwater	239C1 250C	239C1 250C1

The Class C1 proposed upgrade will provide Titusville with it's only 100 KW wide service area facility while Clearwater remains amply served by two 100 KW stations. When WGNE's upgrade to Class C1 is authorized SBG pledges to promptly file an application to construct the higher class facility.

We have tried to be as accurate as possible in the preparation of this report. Should there be any questions concerning the information contained herein, we welcome the opportunity to discuss the matter by phone (912) 638-5608.



### USABLE AREA MAP

REFERENCE COORDINATES:  
NORTH LATITUDE 28-48-17  
WEST LONGITUDE 80-48-22

MAP IS A PORTION OF THE USGS 500,000  
SCALE TOPOGRAPHIC MAP 'FLORIDA'

THE ENTIRE CITY OF TITUSVILLE WILL BE  
SERVED BY THE 3.16 mV/m CONTOUR FROM  
A C1 FACILITY AT THE REFERENCE SITE

### EXHIBIT #1A

SBG COMM. OF FLORIDA, INC.  
WGNE FM RADIO STATION  
98.1 MHZ - CHANNEL 251  
TITUSVILLE, FLORIDA

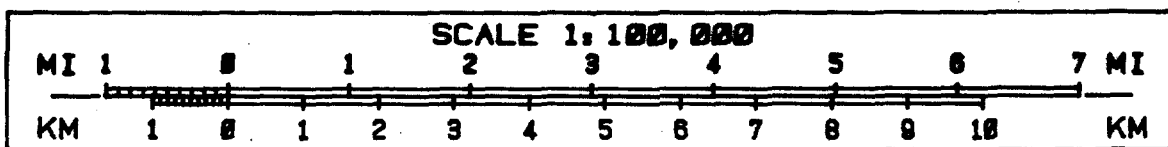
OCTOBER 1991

**BROMO COMMUNICATIONS**

St Simons Island, Georgia

BROADCAST  
TECHNICAL CONSULTANTS

Washington, D.C.



#### DETAIL OF USABLE AREA

REFERENCE COORDINATES:  
NORTH LATITUDE 28-48-17  
WEST LONGITUDE 80-48-22

MAP IS A PORTION OF THE USGS 100,000  
SCALE TOPOGRAPHIC MAP 'TITUSVILLE'

EXHIBIT #1B  
SBG COMM. OF FLORIDA, INC.  
WGNE FM RADIO STATION  
98.1 MHZ - CHANNEL 251  
TITUSVILLE, FLORIDA

OCTOBER 1991

**BROMO**  
**COMMUNICATIONS**  
BROADCAST  
TECHNICAL CONSULTANTS  
St Simons Island, Georgia Washington, D.C.

BROMO COMMUNICATIONS INC.  
Broadcast Technical Consultants

UPGRADE CLEARANCE STUDY  
WGNE - TITUSVILLE, FLORIDA

REFERENCE		CLASS C1	DISPLAY DATES
28 48 17 N			DATA 08-28-91
80 48 22 W		Current rules spacings	SEARCH 10-01-91
----- CHANNEL 251 - 98.1 MHz -----			

CALL TYPE	CH# LAT	CITY LNG	STATE PWR	BEAR' HT	D-KM D-Mi	R-KM R-Mi	MARGIN (KM)
WGNE	251C2	Titusville	FL	311.4	7.30	223.5	-216.20 *
LI CN	28 50 54	80 51 44	50.000 kW	141M	4.5	138.9	
SBG Communications of Florida					BLH890123KK		
>FROM CHANNEL 252							
ALOPEN	250C	Clearwater	FL	245.2	201.29	208.5	-7.21 *
AL N	28 02 34	82 40 16	0.000 kW	OM	125.1	129.6	
88-501							
>Effective 11-13-89-Rsvd for WKRL per D88-501							
WUVU.C	250C2	St. Augustine	FL	335.9	157.65	157.5	0.15 <
CP ZCN	30 06 12	81 28 08	50.000 kW	147M	98.0	97.9	
Shull Broadcasting Company, I					BPH900308IA		
WPCV	248C	Winter Haven	FL	224.1	104.74	104.5	0.24 <
LI CN	28 07 35	81 33 03	100.000 kW	301M	65.1	64.9	
Hall Communications, Inc.					BLH870213KA		
ALOPEN	251C1	Live Oak	FL	302.9	267.86	244.5	23.36
AL N	30 07 02	83 07 29	0.000 kW	OM	166.5	152.0	
90-546							
>Site Restricted-Effective 4-22-91-Rsvd for WQHL per D90-546							
WXTB	250C1	Clearwater	FL	244.9	200.11	176.5	23.61
LI CN	28 02 21	82 39 21	100.000 kW	183M	124.4	109.7	
Great American Television & R					BLH880413KA		
>*To Channel 250C per D89-501							
WQHLFM	251C2	Live Oak	FL	308.1	266.10	223.5	42.60
LI CN	30 17 14	82 57 56	50.000 kW	112M	165.4	138.9	
Day Communications, Inc.					BLH900213KB		
>*To Channel 251C1 per D90-546							

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EXHIBIT #2  
SBG COMM. OF FLORIDA, INC.  
WGNE FM RADIO STATION  
98.1 MHZ - CHANNEL 251  
TITUSVILLE, FLORIDA

OCTOBER 1991

AFFIDAVIT AND QUALIFICATIONS OF CONSULTANT

State of Georgia       )  
St. Simons Island     )  
County of Glynn       )       ss:

RICHARD S. GRAHAM, JR. being duly sworn, deposes and says that he is an officer of Bromo Communications, Inc. Bromo has been engaged by SBG Communications of Florida, Inc., licensee of WGNE FM Radio Station, to prepare the attached Technical Exhibit.

His qualifications are a matter of record before the Federal Communications Commission. He is a graduate of Auburn University and has been active in broadcast engineering since 1972.

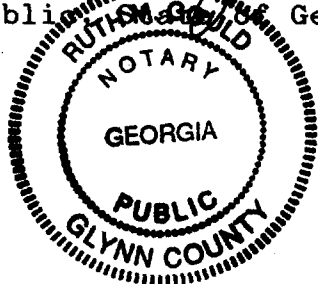
The attached report was either prepared by him or under his direction and all material and exhibits attached hereto are believed to be true and correct.

This the 1st day of October, 1991.

  
Richard S. Graham, Jr.  
Affiant.

Sworn to and subscribed before  
me this the 1st day of  
October, 1991.

  
Notary Public, State of Georgia



**CERTIFICATE OF SERVICE**

I, Joanne K. Lee, a secretary with the law firm of Kaye, Scholer, Fierman, Hays & Handler, do hereby certify that a copy of the foregoing "Petition for Rulemaking" was hand delivered this 3rd day of October, 1991, to the following:

Mr. Karl Kensinger, Chief  
Allocations Branch  
Federal Communications Commission  
2025 M Street, N.W., room 8322  
Washington, D.C. 20554

  
Joanne K. Lee

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